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PAUL, HASTINGS, JANOFSKY & WALKER LLP
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Washington DC 20005

In re Application of :
BRADSHAW, Phillip, et al. :
Application No.: 10/567,110 :
PCT No.: PCT/AU2004/000875 :
Int. Filing Date: 30 June 2004 :
Priority Date: 04 August 2003 :
Docket No.: WRA0020-US :
For: METHOD AND SYSTEM FOR :
SYNCHRONIZING STATIONS :
WITHIN COMMUNICATIONS :
NETWORKS AND STATIONS FOR :
USE THEREIN :

DECISION

ON PETITIONS UNDER

37 CFR 1.181 AND 1.137(a)

This decision is in response to applicant's Petitions Under 37 C.F.R. 1.181 and 1.137(a), filed in the United States Patent and Trademark Office on 03 July 2008.

BACKGROUND

On 16 May 2008, the Office mailed Decision On Petition Under 37 CFR 1.181, dismissing applicant's petition to withdraw the holding of abandonment.

On 03 July 2008, applicant filed this petition under 37 CFR 1.181 to withdraw the holding of abandonment.

DISCUSSION

Applicant asserts that listing "authorization to charge Deposit Account 03-3975 \$1325," on the postcard receipt was an authorization sufficient to avoid abandonment in this application. First, it cannot be an authorization as it lacks an authorizing signature. As stated in the Deposit Account FAQs on the USPTO website "For your security, only requests signed by persons on the authorized user list will be processed." The postcard does not contain any signature. The 16 May 2008 decision inaccurately stated that a signature of a registered practitioner was required. It should have said that the signature of an individual or organization authorized to act on the deposit account was required. The postcard statement could not be an authorization.

Further, the postcard receipt is not part of the application. See MPEP 503. Applicant argues that the authorization does not need to be part of the application, but applicant is mistaken. Business with the Office is conducted exclusively in writing and based on the written record of the application. 37 CFR 1.2. An authorization to charge fees is a request for action in an application and must be made part of the record. Fees are a required element for an application.

Petition Under 37 CFR 1.137(a)

A petition to revive an application for patent unavoidably abandoned under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, (2) the petition fee, (3) a satisfactory showing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition to 1.137(a) was unavoidable and (4) a terminal disclaimer if application was filed before June 8, 1995.

Items (1), (2) and (4) have been met. Applicant has now paid the basic national fee and the petition fee. A terminal disclaimer is not required as the application was filed on or after 08 June 1995.

Item (3) has not been satisfied. Applicant has not established that the failure to provide a fee authorization or to otherwise pay the basic national fee by thirty months was an unavoidable error that could not have been averted by the care that one takes with one's most important business. Specifically, applicants claim this was a rare clerical error and they believe that other oversights would have come to the attention of docketing department. Are there quality control provisions in place to review the files? Applicants state that this was the only this clerk had made "this mistake". For how long was the clerk employed by the firm, how many applications did she review and did she have a history of other mistakes?

CONCLUSION

For the reasons discussed above, applicant's petition under 37 CFR 1.181 to withdraw the holding of abandonment is **DISMISSED**, without prejudice. The petition under 37 CFR 1.137(a) is **DISMISSED** without prejudice.

This application remains **ABANDONED**.

A proper reply to this decision is required within TWO (2) MONTHS from the mail date of this decision. Failure to timely file the proper response may be construed as intentional delay. Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter may be filed electronically or if mailed, should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Erin P. Thomson/

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